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 7

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,)
 11)
 Plaintiff,)
 12 v.) 2:05-cr-0100-RLH-LRL
 13 NELSON OSEMWENGIE, *et al.*,) 2:06-cr-0002-RLH-GWF
 14 Defendants.)

15 **UNOPPOSED MOTION FOR EXTENSION OF TIME**

16 **(Second Request)**

17 Pursuant to Fed. R. Civ. P. 6(b), LR IA 3-1, and LR 6-1¹, the United States of America
 18 (“United States”) respectfully submits this unopposed motion seeking an extension of time until and
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20 ¹ Although this is a criminal case, the Federal Rules of Civil Procedure apply to the ancillary
 21 forfeiture proceeding because ancillary forfeiture proceedings are considered civil in nature. *See*
United States v. Alcaraz-Garcia, 79 F.3d 769, 772 n. 4 (9th Cir. 1996) (holding that “the third party
 22 proceeding is *civil* in nature” and, therefore, Fed. R. App. P. 4 determines the timeliness of an appeal
 23 from the denial of a third-party petition under 21 U.S.C. § 853(n)); *United States v. Douglas*, 55 F.3d
 24 584, 588 (11th Cir. 1995) (holding that a third-party claim in a proceeding ancillary to criminal
 25 forfeiture is to be considered a civil action for purposes of permitting an award of attorney’s fees
 26 under the Equal Access to Justice Act); *United States v. BCCI Holdings (Luxembourg) S.A.*, 69 F.
 Supp. 2d 36, 54-55 (D.D.C. 1999) (because the ancillary proceeding is essentially civil in nature, “the
 Court adopted and adapted the Federal Rules of Civil Procedure” to impose sanctions under Fed. R.
 Civ. P. 11, to allow dispositive motions under Fed. R. Civ. P. 12 and 56, to permit civil discovery, and
 to allow appeals by third parties from denial of claims under Fed. R. Civ. P. 54(b)).

1 including March 30, 2007, for the United States to respond to the Petitions of Lantis Osemwengie
2 (Docket #167 in 2:05-cr-0100-RLH-LRL and Docket #267 in 2:06-cr-0002-RLH-GWF) and the
3 Petitions of Philomena Osemwengie (#168 in 2:05-cr-0100-RLH-LRL and #268 in
4 2:06-cr-0002-RLH-GWF) filed on February 9, 2007, in 2:06-cr-0002-RLH-GWF and on February 12,
5 2007, in 2:05-cr-0100-RLH-LRL. The United States's responses are currently due on March 12,
6 2007, respectively.

The reasons for the second requested extension are that the United States Secret Service Special Agent has been unavailable the past few weeks to assist concerning the facts and circumstances in this case, and counsel for the United States was (1) involved in several last-minute high profile criminal matters from March 1, 2007, through March 7, 2007, (2) had a Ninth Circuit Mediation hearing, and (3) two last minute civil cases that required and consumed much of the time intended for the preparation of Responses to the Petitions.

On March 9, 2007, Mr. Ulrich W. Smith, counsel for Nelson and Lantis Osemwengie, indicated that he has no opposition to the requested extension of time. This unopposed motion is not submitted solely for the purpose of delay or for any other improper purpose.

DATED this 12th day of March, 2007.

STEVEN W. MYHRE
Acting United States Attorney

/s/ Daniel D. Hollingsworth
DANIEL D. HOLLINGSWORTH
Assistant United States Attorney

21 IT IS SO ORDERED.

Roger L. Hunt
CHIEF UNITED STATES DISTRICT JUDGE

DATED: March 13, 2007

1 **PROOF OF SERVICE**

2 I, Daniel D. Hollingsworth, certify that the following individuals were served the
3 **UNOPPOSED MOTION FOR EXTENSION OF TIME (Second Request)** on March 12, 2007 by
4 the below-identified method of service:

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15 DATED this 12th day of March, 2007.

16 /s/ Daniel D. Hollingsworth
17 DANIEL D. HOLLINGSWORTH
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